

MACOMB COUNTY HAZMAT TEAM INTERLOCAL AGREEMENT

WHEREAS, the City of Sterling Heights, City of Warren, Township of Clinton and Township of Shelby, as Sponsoring Agencies, and all Participating Agencies, along with Macomb County, as an Agency, enter into this Agreement pursuant to the Urban Cooperation Act, MCL 124.501 et seq.; and

WHEREAS, the Sponsoring Agencies and Macomb County are desirous of establishing an interlocal agreement for cooperation by committing the Sponsoring Agencies' local hazardous materials teams, personnel, and equipment for the purpose of responding to hazardous materials incidents, including Chemical, Biological, Radiological, Nuclear, and High Yield Explosives, and Weapons of Mass Destruction (CBRNE/WMD) events; hereinafter referred to as the Macomb County Hazmat Team (MCHT); and

WHEREAS, the resources of each Agency could be strained or insufficient if required to address such an incident without assistance; and the parties acknowledge the potential need for personnel and equipment beyond those of a single Agency in order to meet and mitigate potential dangers to public safety; and

WHEREAS, the Sponsoring Agencies, Participating Agencies, and County are not establishing a governmental agency, entity, or authority, nor establishing a separate legal or administrative agency under Section 7(1) of the Urban Cooperation Act, MCL 124.507(1) and have not therefore provided for or otherwise established such an agency by the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual interest, obligations, and promises herein contained, the Sponsoring Agencies, Participating Agencies, and County agree as follows:

ARTICLE I DEFINITIONS

The following words and expressions in this Agreement, whether used in the singular or plural, within or without quotation marks, or possessive or non-possessive, will be defined, read, and interpreted as follows:

A. **Agency** means a political subdivision which has entered into this Agreement as a signatory.

B. **Board of Directors** means the individuals appointed by each Sponsoring Agency and the County to coordinate the Macomb County Hazmat Team in accordance with this Agreement.

C. **County** means Macomb County and includes its departments and its elected and appointed officials, employees, and agents, including specifically the Macomb County Office of Emergency Management & Communications (MCOEMC).

D. **Participating Agency** means any city, village, or township 1) that is a signatory to this Agreement, including, but not limited to its departments, divisions, elected officials, employees, subcontractors, and volunteers, and 2) which shall furnish equipment, personnel, and/or services to the Macomb County Hazmat Team. See Attachment No. 1.

E. **Requesting Agency** means any agency, including a Sponsoring or Participating Agency, which is a signatory to the Macomb County Hazardous Materials Service Agreement. See Attachment No. 2.

F. **Sponsoring Agency** means each of the following: the City of Sterling Heights, the City of Warren, the Township of Clinton and the Township of Shelby. With the exception of Shelby Township, these municipalities are the original State of Michigan-designated Regional Response Teams (RRT) in Macomb County, have committed their assets to form the MCHT, and are signatories to this Agreement.

ARTICLE II OPERATIONAL PROCEDURES AND GUIDELINES

A. Purpose.

The mission of the Macomb County Hazmat Team (MCHT) is to respond to and mitigate incidents involving weapons of mass destruction (CBRNE) and Toxic Industrial Chemicals (TIC) utilizing the resources of participating Macomb County Fire Departments. The goal of the team is to meet or exceed all criteria for a Type I team based on National Incident Management System (NIMS) criteria. The team will augment fire department resources of Macomb County Communities during hazardous material incidents or CBRNE/WMD events and TIC events when such departments are not equipped to adequately respond to the event, or which have depleted their resources. The MCHT will improve operating efficiencies and effectiveness, and will eliminate unnecessary redundant services in Macomb County.

B. Governing Authority.

A Board of Directors shall be established to consider, adopt, and amend rules, procedures, bylaws, policies, and other matters deemed necessary by the Board members. The Board of Directors will consist of five (5) members. One (1) board member shall be appointed by and from each of the Sponsoring Agencies (Clinton Twp, Shelby Twp, Sterling Heights and Warren), and one (1) board member shall be appointed by Macomb County and from the Macomb County Office of Emergency Management & Communications (MCOEMC). A quorum shall consist of a simple majority of its members. All actions of the Board of Directors must be taken by unanimous vote of all five members of the Board of Directors unless otherwise provided in this Agreement.

C. Clerical, Administrative, and Fiduciary Responsibilities.

The Macomb County Office of Emergency Management & Communications will provide administrative and record keeping services and fiduciary services with respect to financial matters for the MCHT. The MCOEMC will retain three percent (3%) of the Administrative Fee provided for in item 8 of the Macomb County Hazardous Materials Service Agreement in

consideration of providing these services. Such payment shall be made by MCOEMC deducting it from the Administrative Fees collected and processed by MCOEMC.

D. Operation Policies and Procedures.

The Board of Directors shall adopt Standard Operating Guidelines to be implemented and followed by the MCHT. This includes the establishment and annual review of a Fee Schedule.

E. Personnel for Response Team.

Persons to serve on the MCHT shall be sponsored by their employing Sponsoring or Participating Agency, and shall complete the Hazmat Team Personnel Application for a specific position on the MCHT. An applicant shall acknowledge that the applicant intends, if appointed, to serve three (3) years as part of the team, and the Sponsoring or Participating Agency shall commit that the applicant will serve three (3) years unless withdrawn due to termination, medical necessity, or withdrawal/termination from participation under this Agreement. The application shall be submitted to the Board of Directors for consideration. The Board of Directors shall have the right to add or remove individual personnel from the response team, and to increase or decrease the number of members of the team.

F. Responsibility of Sponsoring and Participating Agencies.

1) Each Agency shall pay the compensation of its employees, including salary, benefits, workers' compensation, and other insurance provisions, according to its own collective bargaining agreements and work rules.

2) Each Agency shall provide, if necessary, overtime or backfill for members of the response team to attend training sessions, exercises, and call-outs according to its own collective bargaining agreements and work rules.

3) Each Agency shall provide and pay for physical examinations for Response Team Members as required by OSHA, 29 CFR 1910.120.

4) Each Agency will remain the owner of all vehicles and equipment purchased or acquired by such Agency, notwithstanding that such vehicles or equipment are used for the MCHT.

5) Each Agency shall be responsible for obtaining and maintaining, throughout the term of this Agreement, all licenses, permits, certificates, and governmental authorizations for its employees, agents, and volunteers necessary to perform all its obligations under this Agreement, including any licenses required by the State of Michigan.

6) Each Participating Agency shall have a signed Macomb County Participating Agency Agreement on file with the MCOEMC in the form set forth in Attachment No. 1, as amended from time to time.

G. **Requesting Agency's Responsibilities.**

Requesting Agency shall have a signed Macomb County Hazardous Materials Service Agreement on file with the MCOEMC in the form set forth in Attachment No. 2, as amended from time to time.

**ARTICLE III
OTHER PROVISIONS**

A. **Duration of Interlocal Agreement.**

This Agreement and any amendments will be effective when executed by all Sponsoring Agencies with concurrent resolutions adopted by the governing bodies of each Sponsoring Agency and the County, and the Agreement is filed with the Office of the Great Seal as required by MCL 124.510. This Agreement will remain in effect until terminated as provided herein.

B. **Governmental Immunity Maintained.**

Nothing contained in this Agreement shall constitute or be construed as a waiver of any governmental immunity, as provided by statute or common law, on the part of the County of Macomb, Sponsoring Agencies, Participating Agencies, or their officers or employees.

C. **Termination as to an Agency, Sponsoring Agency, or Participating Agency.**

1) **By Agency.** An Agency may terminate or cancel its participation under this Agreement with or without cause upon thirty (30) days written notice served upon MCOEMC. The effective date for termination or cancellation will be clearly stated in the notice. The MCOEMC shall notify the remaining Sponsoring Agencies of such termination in writing forthwith.

2) **By Board.** The Board of Directors, by an affirmative vote of four (4) members, may immediately terminate a Sponsoring or Participating Agency's participation under this Agreement, with or without cause, effective upon service of a written notice of such termination upon the Sponsoring or Participating Agency which has been terminated.

D. **No Third Party Beneficiaries.**

This Agreement confers no rights or remedies on any third party, other than the parties to this Agreement and their respective successors and permitted assigns.

E. **Compliance with Laws.**

Each Agency will comply with all federal, state, and local statutes, ordinances, administrative regulations, rules, and requirements applicable to its activities performed under this Agreement.

F. **Reservation of Rights.**

This Agreement does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Agencies.

G. **Delegation/Subcontract/Assignment.**

An Agency shall not delegate, subcontract, or assign any obligations or rights under this Agreement without the express written consent of the Board of Directors, and any attempt to do so without written consent will have no force or effect.

H. **No Implied Waiver.**

A waiver of a breach of or failure to enforce any provision of this Agreement shall not be considered (1) a waiver of a further breach of the same term, or (2) a waiver of a breach of any other term, or (3) a waiver of the right of the Board of Directors to declare a default.

I. **Severability.**

Each provision of this Agreement shall be interpreted under applicable law. If any provision is held invalid or held unenforceable, the rest of the Agreement will remain in full force and effect.

J. **Captions.**

The section and subsection numbers and captions contained in this Agreement are intended for convenience only and are not intended to have any substantive meaning.

K. **Notices.**

All required notices must be in writing and will be considered given when delivered (1) personally, or (2) by first-class mail, addressed as follows:

1) If notice is sent to the County, it will be addressed and sent to: Macomb County Office of Emergency Management, 21930 Dunham Road, Mount Clemens, MI 48043.

2) If notice is sent to a Sponsoring Agency or Participating Agency, it will be addressed to that Agency's Authorized Representative on file.

3) An Agency may change the address and/or individual to which notice is sent by notifying the MCOEMC in writing of the change.

L. **Governing Law.**

This Agreement will be governed and interpreted pursuant to Michigan law.

M. **Entire Agreement.**

This Agreement and any attachments, including but not limited to the Macomb County Hazardous Materials Service Agreement, contain the entire understanding among the signors of this Agreement.

N. **Authorization.**

The parties have taken all actions and have secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Agency have the legal authority to sign it and bind the parties to the terms of this Agreement.

O. **Liability and Insurance.**

Each Sponsoring and Participating Agency shall be responsible for any liability, claim, loss, damages, demands, costs, or judgments (including attorney fees) for bodily injury, including death, or property damage to any person or legal entity, arising out of or related to the acts or omissions of that Sponsoring or Participating Agency or its employees or agents, to the extent provided by law.

P. **Termination of Macomb County Hazmat Team Interlocal Agreement.**

This Agreement may be terminated in its entirety by a resolution favoring termination adopted by at least three of the legislative bodies of the Sponsoring Agencies, effective upon service of notice of the termination upon any remaining Sponsoring Agencies.

**ARTICLE IV
ADDITIONAL PARTICIPATING AGENCIES; AMENDMENTS**

A. **Amendment to Add Participating Agency to this Agreement.**

A public agency which meets the definition of a public agency in Section 2(e) of the Urban Cooperation Act, MCL 124.502(e), and has fire department powers, may join in this Agreement by providing a resolution adopted by its governing body and by having its authorized representative execute and date a signature page to this Agreement in the form of Attachment No. 1, provided that such addition is approved by the Board of Directors and such approval is evidenced in writing on the signature page. The executed signature page shall be on file with MCOEMC.

B. **Other Amendments.**

Amendments to this Agreement, other than to add a Participating Agency to this Agreement, may be made upon approval of the Board of Directors, and evidenced by signatures of the appropriate representative of each Sponsoring Agency and the County. An amendment, other than the addition of a Participating Agency, shall be approved, processed and filed in the same manner as the original agreement, including submission of the amendment to the MCOEMC.

For purposes of either subsection A or subsection B above, a new agreement is not required.

**MACOMB COUNTY HAZMAT TEAM
INTERLOCAL AGREEMENT SIGNATURE PAGE
SPONSORING AGENCIES**

Clinton Township


Robert Cannon, Township Supervisor

10-18-11
Date

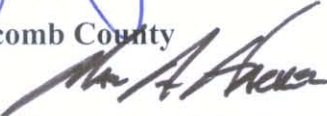

George Fitzgerald, Township Clerk

10/18/11
Date

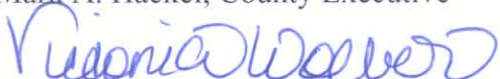

John J. Shea, Fire Chief

14 OCT 11
Date

Macomb County


Mark A. Hackel, County Executive

11/18/11
Date

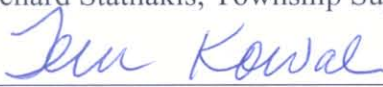

Victoria Wolber, Emergency Mgt. Coordinator

10/14/11
Date

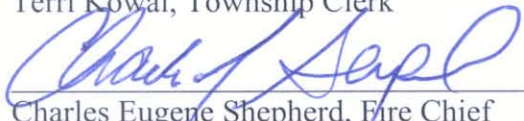
Shelby Township


Richard Stathakis, Township Supervisor

10/24/11
Date


Terri Kowal, Township Clerk

10/24/11
Date

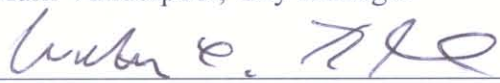

Charles Eugene Shepherd, Fire Chief

10/14/2011
Date

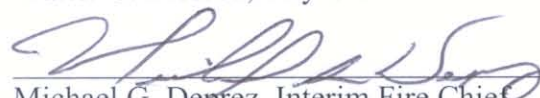
Sterling Heights


Mark Vanderpool, City Manager

10/14/2011
Date

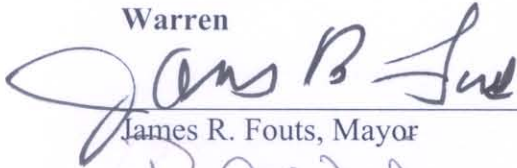

Walter C. Blessed, City Clerk

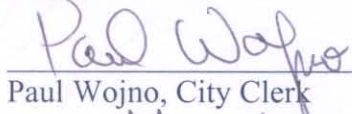
11/2/11
Date



Michael G. Deprez, Interim Fire Chief

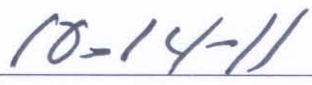
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Date

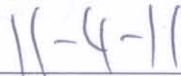
Warren

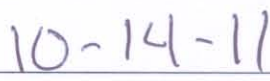

James R. Fouts, Mayor


Paul Wojno, City Clerk


Wilburt McAdams, Fire Commissioner


Date


Date


Date

ADDITIONAL PARTICIPATING AGENCY AGREEMENT

The undersigned on behalf of _____ (name of additional Participating Agency) hereby agrees to the terms and conditions of the Macomb County Hazmat Team Interlocal Agreement.

Name of Additional Participating Agency: _____

By: Name and Title

Date

Approval of Additional Participating Agency:

The addition of _____ (name of additional participating agency) as a Participating Agency in this Agreement is approved by the Board of Directors.

Board of Directors:

Clinton Township:

Macomb County:

Name and Title

Name and Title

Date

Date

Sterling Heights:

Shelby Township:

Name and Title

Name and Title

Date

Date

Warren:

Name and Title

Date

MACOMB COUNTY HAZMAT TEAM SERVICE AGREEMENT

WHEREAS, certain Macomb County fire departments are part of a Macomb County Hazmat Team, hereinafter referred to as Macomb County HT, for the purpose of servicing Macomb County communities with a National Incident Management System (NIMS) Type I or II Hazmat Team, pursuant to the Urban Cooperation Act, MCL 124.501 et seq.; and

WHEREAS, the Macomb County HT departments have purchased specialized equipment and obtained specialized training for fire department employees, above and beyond normal fire suppression activities, in the area of handling hazardous materials emergencies; and

WHEREAS, the undersigned agency (hereafter "Requesting Agency") desires the option of requesting assistance for hazardous materials incidents that involve the need for deployment of resources with specialized equipment and training; and

WHEREAS, the parties mutually desire to provide by agreement for the identification of hazardous materials incidents and for reimbursement of costs associated with the deployment of personnel with specialized training and equipment from the Macomb County HT.

NOW, THEREFORE, in consideration of mutual covenants and agreements herein contained, the parties agree as follows:

1. **Hazardous Materials Services.** Requesting Agency shall request aid from the Macomb County Hazmat Team by contacting the designated dispatch center and advising that Requesting Agency wishes the Macomb County HT to be deployed and identifying the nature of the hazardous materials incident. Requesting Agency expressly authorizes the person from the Requesting Agency who requests services to do so, and such requests are fully binding upon the Requesting Agency. Macomb County HT Team Leaders or designee(s) will have the sole authority to determine the number of personnel and type of resources it will deploy to the scene based upon information received from the Requesting Agency. The MCHT shall have the sole authority to modify or terminate the response at any time, without liability. Requesting Agency shall be fully responsible pursuant to the terms of this Agreement for payment for services and equipment deployed by Macomb County HT once a request has been made. Requesting Agency shall be further responsible for the cost of additional services deployed, including personnel and equipment, if a request for further services is made by Macomb County HT personnel who have responded to the emergency scene.

2. **Canceling Request for Deployment by Requesting Agency.** Requesting Agency shall be fully responsible for paying all costs associated with a request for deployment, even if the request is cancelled.

3. **Computation of Time.** Time for personnel and equipment will be calculated from the time of notification of the Requesting Agency's request for deployment until the time all equipment is checked, cleaned, and returned to in-service condition, where applicable. Billing will be in increments of quarter hours rounded up to the next higher quarter hour.

4. **Support Requirements.** Macomb County HT shall function as a resource to Requesting Agency under the guidelines of the Incident Command System as established by the National Incident Management System. It will be the responsibility of the Requesting Agency to provide resources that will aid in the smooth and safe conclusion to any incident. During any Type I or II HAZMAT operation, Requesting Agency will provide the following resources:

- A. Two (2) ALS Transport Units dedicated to HAZMAT operations
- B. One (1) Class "A" Pumper with continuous water supply, staffed with no less than 2 personnel
- C. Established command post with safety officer
- D. Eight (8) – Personnel trained to the Operations level

5. **Cost Recovery Ordinance.** To the extent permitted by law, Requesting Agency agrees to adopt its own cost recovery ordinance. However, the existence or non-existence of any cost recovery ordinance or delay in or failure to receive payment from any third party shall not limit or modify the primary obligation of the Requesting Agency for full and timely payment to Macomb County HT for services rendered by it. Macomb County HT will provide documentation to support the Requesting Agency's cost recovery efforts.

6. **Invoicing Procedures.** All invoicing for the Macomb County HT will be handled by the Macomb County Office of Emergency Management & Communications (MCOEMC). Invoices will be forwarded to the Fire Chief or the senior administrative officer in the fire department of the Requesting Agency, with a copy provided to the Mayor, Township Supervisor, or City Manager. Each invoice shall be payable within sixty (60) days from the date of mailing. Interest shall accrue at the rate of nine percent (9%) per annum on overdue invoices commencing sixty (60) days from the date of mailing of the invoice, which interest may only be waived if approved by Macomb County HT.

7. **Delinquent Accounts.** The actual costs of collection, including administrative costs and actual attorney fees, shall be paid to the Macomb County HT by the Requesting Agency that requested the service but failed to remit timely payment to the MCOEMC as required in section 6 above. For any accounts which are overdue and unpaid, Macomb County HT may elect not to respond to requests for assistance from Requesting Agency until all accounts of Requesting Agency are paid in full or a suitable payment arrangement has been approved by Macomb County HT.

8. **Schedule of Hazardous Materials Services.** The Macomb County HT, through its Board of Directors, shall adopt a fee schedule on an annual basis and provide specific costs for personnel, apparatus, disposable items and an administrative fee. A current Fee Schedule will be provided to a Requesting Agency upon execution of the Service Agreement, and on an annual basis thereafter per the annual adoption of such schedule by the Board of Directors.

9. **Termination by Requesting Agency.** Requesting Agency may terminate its participation in this Agreement if termination is approved by its governing body and such termination shall be effective thirty (30) days after service of written notice of termination on the Macomb County Office of Emergency Management & Communications.

10. **Modification.** Except for paragraph 13, this Agreement shall not be subject to modification unless such modification is approved by the governing body of the Requesting Agency, the Board of Directors of the MCHT, and signed in writing by all parties. (Revised 11/28/11 by Board of Directors)

11. **Entire Agreement.** All terms, provisions, and prior understandings are merged and incorporated in this Agreement. Each party represents that no promises or inducements other than those set forth in this Agreement have been made as an inducement for its execution, and that any representation, promise, or warranty not expressly set forth in this Agreement shall not be binding.

12. **Suspension of Services.** Upon written notice by Macomb County HT to Requesting Agency, the Macomb County HT may, in its sole discretion, immediately suspend this Agreement or services provided under this Agreement to that agency. If Requesting Agency is also a Sponsoring Agency, then the Macomb County HT may immediately suspend this Agreement, or services provided under this Agreement, upon the affirmative vote of four (4) of its members and upon written notice to the Sponsoring Agency to be suspended.

13. **Liability.** Requesting Agency shall be responsible for any liability, claim, loss, or damages, demands, costs, or judgments, including attorney fees, for bodily injury, death, and property damage to any person or entity arising out of or related to the acts or omissions of Requesting Agency or its officers, employees, or agents. This paragraph cannot be modified without the express written approval from the Sponsoring Agency's and County's Risk Manager. (Revised 11/28/11 by Board of Directors)

Nothing in this Agreement shall constitute or be construed as a waiver of any governmental or public immunity of any Requesting Agency, Participating Agency, Sponsoring Agency, or Macomb County, or their officers, employees, or agents.

In witness whereof the parties set their hands and seal this _____ day of _____, 2011.

In the Presence of:

Macomb County Hazmat Team
Board of Directors

By: _____

By: _____

By: _____

By: _____

By: _____

Requesting Agency

Authorized Representative(s)

By: _____

By: _____